

## Message Text

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ACTION EB-07

INFO OCT-01 ARA-06 ISO-00 CIAE-00 COME-00 DODE-00 DOTE-00

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FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC 7815

INFO AMCONSUL RIO DE JANEIRO

AMCONSUL SAO PAULO

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E.O. 11652: N/A

TAGS: EWWT BR

SUBJECT: MARITIME CONSULTATIONS, RIO DE JANEIRO, SEPT 13, 1976

FOLLOWING TELEGRAM DRAFTED BY AMCONGEN RIO DE JANEIRO, EMBASSY  
CONCURS.

QUOTE SUMMARY. SEPT 13 SESSIONS CONCENTRATED ON USDEL'S EXPOS-  
ITION OF OUR PROBLEMS WITH RECENT GOB EXPORT-INCENTIVES' IMPACT  
ON NORTHBOUND CARGOES AND THE DIFFERENCE OF OPINION BETWEEN TWO  
GOVERNMENTS ON SOUTH-BOUND "EQUAL ACCESS" TO NON-POOL PORTS UNDER  
POOLING ARRANGEMENTS. DIFFICULTIES ARISING FROM BRAZILIAN BILAT-  
ERAL 50-50 AGREEMENTS WITH OTHER LATIN AMERICANS, AS WELL AS  
MARINE UNDERWRITING AND LIGHT-BUOY DUES ISSUES, ALSO RAISED.  
BRAZILIAN SIDE OFFERED VARIOUS DATA AND OBSERVATIONS TO SUPPORT  
ITS CONTENTION THAT US LINES WERE NOT DISADVANTAGED BY INCEN-  
TIVES, BUT UNDER PRESSURE CONCEDED THAT THEY WOULD SEEK TO DETER-  
MINE WHETHER THERE WAS ANY FLEXIBILITY IN INTRA-GOVERNMENT POSITION  
ON THIS ISSUE. END SUMMARY.

1. ASSISTANT SECRETARY OF COMMERCE FOR MARITIME AFFAIRS ROBERT  
BLACKWELL, HEAD OF USDEL, OPENED WITH EXTENSIVE REVIEW OF RECENT  
USG CONCERNS WITH OPERATION OF BILATERAL SHIPPING AGREEMENT,  
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INCLUDING DIFFICULTIES US-FLAG CARRIERS ARE HAVING WITH POOLING

ARRANGEMENTS. BLACKWELL SAID THAT, UNTIL THE PAST 5-6 MONTHS, THE SHARING ARRANGEMENTS UNDER THE 1970 AGREEMENT HAD MET THE ASPIRATIONS OF BOTH COUNTRIES. NOW, HOWEVER, THERE IS AN IMBALANCE, PARTICULARLY NORTHBOUND, IN FAVOR OF THE TWO BRAZILIAN CARRIERS, NETUMAR AND LLOYD BRASILEIRO. A KEY INDICATOR OF THE IMBALANCE IS THE APPROXIMATELY \$1 MILLION OWED BY THE BRAZILIAN PARTIES TO THE POOL TO MOORE-MCCORMACK FOR THE FIRST HALF OF 1976 FOR BRAZILIAN OVERCARRIAGE UNDER THE POOL. IN THE FIRST QUARTER OF 1976, MOORE-MCCORMACK'S NORTHBOUND CARGOES ARE DOWN 16 PERCENT DESPITE AN OVERALL TOTAL INCREASE OF 41 PERCENT.

2. ASST SEC BLACKWELL STATED THAT THE PRESENT IMBALANCE IN CARGOES APPEARED TO STEM FROM THE GOB'S DECISION IN NOVEMBER, 1975, TO CONVERT THE EXISTING EXPORT INCENTIVE PROGRAM FROM TAX CREDITS TO DIRECT CASH PAYMENTS TO BRAZILIAN EXPORTERS. THE EXISTING REQUIREMENT THAT EXPORTS BE ON BRAZILIAN-FLAG SHIPS TO QUALIFY FOR THE PAYMENTS FOR FREIGHT THUS TOOK ON A SIGNIFICANT NEW EFFECT. HE ADDED THAT, THOUGH MOORE-MCCORMACK WAS THE PRINCIPAL US CARRIER AFFECTED AT THE MOMENT, THE OPERATIONS OF PRUDENTIAL AND DELTA LINES ARE ALSO BEING IMPACTED SEVERELY.

3. THE ASSISTANT SEC SAID THAT HE WAS DOUBTFUL ABOUT THE BRAZILIAN DELEGATION'S INFORMAL SUGGESTION THAT MOORE-MCCORMACK MIGHT BE LOSING TRAFFIC BECAUSE IT WAS PROVIDING LESS SERVICE THAN BRAZILIAN CARRIERS ON NORTHBOUND ROUTES. HE ACKNOWLEDGED THAT THE RECENT STATISTICS PROVIDED BY THE BRAZILIAN SIDE WERE INTERESTING, BUT INCONCLUSIVE. HE NOTED THAT THE BRAZILIAN DATA SHOWED 7 PERCENT FEWER MOORE-MCCORMACK SAILINGS IN JANUARY-MARCH, 1976, THAN IN THE SAME PERIOD OF 1975, BUT THAT THERE WAS 17 PERCENT LESS CARGO CARRIED IN THOSE SAILINGS. MOORE-MCCORMACK HAD SUPPLIED INFORMATION TO US THAT SHOWS AN ANTICIPATED 83 NORTHBOUND CALLS IN 1976, VERSUS ONLY 72 TWO YEARS AGO. HE ALSO POINTED TO THE SOUTHBOUND POOLS' CARGO MAKEUP WITH A FULL MOORE-MCCORMACK SHARE, BUT THAT THE SAME SHIPS RETURNED WITH ONLY A THIRD OF THE TRADE. WHILE 40 PERCENT OF THE NORTHBOUND CARGO IS CONTAINERIZED, AND MOORE-MCCORMACK OFFERS TWICE THE CONTAINER CAPACITY, NETUMAR HAS 70 PERCENT OF THE CARRIAGE.

4. THAT OVERCARRIAGE BY BRAZILIAN CARRIERS EXISTS TO A SERIOUS DEGREE IS ALSO SEEN IN MARAD'S PROJECTION FOR FULL-YEAR 1976 OF 50 LIMITED OFFICIAL USE

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MOORE-MCCORMACK SAILINGS, COMPARED TO 43 FOR LLOYD BRASILEIRO AND 38 FOR NETUMAR. THAT AMOUNTS TO 25 PERCENT MORE THAN THE REQUIRED MINIMUM SAILINGS FOR MOORE-MCCORMACK, BUT 90 PERCENT OVER MINIMUM FOR NETUMAR AND A HUGE 115 PERCENT OVER FOR LLOYD. JANUARY-JULY, 1976, STATISTICS SHOW 53 PERCENT OF THE EAST COAST NORTHBOUND TRADE FOR BRAZILIAN FLAG, 32 PERCENT FOR MOORE-MCCORMACK, AND 15 PERCENT FOR THIRD FLAG VESSELS. WHILE THIS SITUATION IS PARTLY ACCOUNTED FOR BY FAILURE OF THE FIRMS INVOLVED

TO REACH ACCOMODATION, THIS FAILURE IS UNLIKELY TO BE RESOLVED AT THE COMMERCIAL LEVEL -- AS SHOWN BY LLOYD PROPOSAL FOR A DISCONTINUANCE OF NORTHBOUND POOL MEETINGS AFTER 33 PERIODIC SESSIONS. ACCOUNTING FOR THIS INABILITY TO AGREE, ACCORDING TO BLACKWELL, IS AN APPARENT RIVALRY BETWEEN NETUMAR AND LLOYD, COMPLICATED BY THE EFFECT OF FISCAL INCENTIVES ON FREIGHT COSTS OF BRAZILIAN EXPORTS.

5. USDEL PUSHED HARD TO GET INCENTIVES ALSO APPLIED TO US SHIPPING LINES, CONTENDING THAT PARA THREE OF DECREE 666 GOVERNING FISCAL INCENTIVES EMPOWERS GOB TO EXTEND THESE BENEFITS TO NON-BRAZILIAN CARRIERS. IT WAS INDICATED THAT TWO GOVERNMENTS COULD APPLY "EQUAL ACCESS" PROVISIONS OF 1970 AGREEMENT TO NORTHBOUND TRADE, EVEN THOUGH USG DOES NOT, FRANKLY, HAVE CONTROL OVER NORTHBOUND CARGOES (AS IT DOES OVER EXIM-FINANCED CARGOES ON SOUTHBOUND -- THE BASIS FOR THE ORIGINAL 1970 AGREEMENT). WE HAVE MORE THAN COMPLIED WITH AGREEMENT, PROVIDING BLANKET WAIVERS FOR EXIM CARGOES TO NON-POOL PORTS AND CREATING SPECIAL SITUATION FOR BRAZIL (SHARED ONLY WITH COLOMBIA AMONG ALL NATIONS RECEIVING EXIM FINANCING) FOR FINANCING OF FREIGHT CHARGES.

6. MANOEL ABUD, NATIONAL MERCHANT MARINE SUPERINTENDENT AND HEAD OF BRAZILIAN DEL, STRESSED THAT GOB, TOO, WANTED SITUATION STABILIZED, SAYING GOB HADN'T REALIZED THINGS WEREN'T RUNNING SMOOTHLY. HE SAID THE SUBSTANTIAL DETERIORATION IN BRAZIL'S BALANCE OF PAYMENTS, "MAY ACCOUNT FOR" THE INCREASED PRESSURE TO USE BRAZILIAN VESSELS. HE USED ARGUMENT THAT MOORE-MCCORMACK CLEARLY HAD NOT SUPPLIED THE SAME LEVEL OF SERVICE RECENTLY, PRODUCING ELABORATE STATISTICS FOR LEVELS OF SAILINGS AND SPECIFIC COMMODITY COMPOSITION OF CARGOES (COPIES GIVEN TO USDEL AND FURTHER DISCUSSED IN AFTERNOON SESSION). ON BASIC COMMODITIES SUCH AS COFFEE AND COCOA, WHICH DO NOT BENEFIT FROM FISCAL INCENTIVES, MOORE-MCCORMACK'S POSITION HAD DETERIORATED THIS LIMITED OFFICIAL USE

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YEAR FROM 1975 LEVELS. HE ALSO CLAIMED THAT BRAZILIAN LINES WERE MORE ACTIVE IN PROMOTION AND DIRECT SALES TO EXPORTERS.

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7. THERE FOLLOWED A LENGTHY, OVER-GENERAL, AND INCONCLUSIVE PRESENTATION ON THE NATURE OF FISCAL INCENTIVES BY A FINANCE MIN REP, WHO CONTRADICTED ABUD'S CONTENTION THAT BRAZILIAN CARRIERS WERE MORE COMPETITIVE. HE ALSO CONTENTED THAT REBATE OF IPI (PRODUCTION TAXES) AND ICM (MARKETING TAXES) AND OTHER INDIRECT TAXES, WHILE LEGAL UNDER GATT, WAS IN FACT INSIGNIFICANT AS FAR AS DETERMINING WHO GOT THE CARGOES. WHEN THE USDEL SUGGESTED THAT SUCH A DE MINIMIS IRRITANT COULD EASILY BE ELIMINATED IF, INDEED, IT DIDN'T WORK, THE FINMIN REP ATTEMPTED TO RAISE US SHIP CONSTRUCTION AND OPERATING SUBSIDIES. LENGTHY DESCRIPTION OF THE NATURE OF US SUBSIDIES AND THEIR AIM TO ESTABLISH OPERATING COST PARITY DID NOT RESULT IN ELIMINATION OF REFERENCES TO SUCH SUBSIDIES THROUGH REST OF THE DAY'S SESSIONS.

8. ASSISTANT SEC BLACKWELL PROVIDED BRAZILIAN DEL WITH COPIES OF MOORE-MCCORMACK AND DELTA INFORMATION INDICATING CUSTOMER LOSSES DIRECTLY ATTRIBUTABLE TO BRAZILIAN FISCAL INCENTIVE OPERATIONS (E.G., DELTA CITED SWIFT AND ARMOUR SWITCHING TO BRAZILIAN CARRIER TO GET 13 PERCENT ICM AND 12 PERCENT IPI REBATE; CATERPILLAR DO BRASIL GOING TO LLOYD TO GET 10 PERCENT ICM TAX REBATE; ETC.). HE ALSO SAID THAT COMPANY DATA INDICATED THAT AN ORANGE JUICE CONCENTRATE SHIPMENT HAD RESULTED IN A LOWERED FREIGHT CHARGE OF SOME \$17,280 (OR ABOUT 25 PERCENT OF THE LIMITED OFFICIAL USE

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CONFERENCE RATE). THESE DEVELOPMENTS ARE RECENT ONES, BLACKWELL SAID, BECAUSE OF THE NOVEMBER, 1975, CHANGE IN THE MEANS OF APPLYING THE FISCAL INCENTIVES, GOING FROM SIMPLE CREDITS (NOT USEFUL ONCE AN EXPORTER HAD MET HIS TAX LIABILITY) TO DIRECT CASH PAYMENTS.

9. ABUD AGREED THAT KEY ISSUE APPEARED TO BE THIS SWITCH IN

NATURE OF FISCAL INCENTIVE PROGRAM (QUIETLY OVERRULING FINMIN REP IN PROCESS), BUT THEN ARGUED THAT THIRD-FLAG CARRIERS HAVE MADE INROADS INTO CARGO TOTALS EVEN THOUGH THEY ARE JUST AS DISADVANTAGED BY INCENTIVE SITUATION. HE PRESENTED DATA ATTEMPTING TO SUPPORT THIS THEORY. BLACKWELL SAID THAT THIRD-FLAG GROWTH WAS NOT A "NORMAL COMPETITIVE SITUATION" AND NOTED A SUSPICION THAT THIRD-FLAG GOVERNMENTS WERE INVOLVED OR THAT THERE MIGHT BE ILLICIT REBATING. BLACKWELL ALSO SAID THAT NETUMAR-LLOYD RIVALRY, EXPORT-INCENTIVE PROGRAM, AND POSSIBLE OTHER INFLUENCES (I.E., REBATING) WERE COMBINING TO HURT MOORE-MCCORMACK, PRUDENTIAL, AND EVEN DELTA -- THE LATTER STILL DOING RELATIVELY WELL, BUT NOTING LOSSES OF CUSTOMERS OF LONG STANDING.

10. THERE WAS MORE DISCUSSION OF BRAZILIAN DATA, WITH USDEL OBSERVING THAT FALLOFF IN MOORE-MCCORMACK CARRIAGE OF COFFEE FROM 53 PERCENT IN 1975 TO 44 PERCENT THIS YEAR WAS, IN FACT, HEALTHY ADJUSTMENT TO COMPENSATE FOR OVERCARRIAGE LAST YEAR. ON COCOA IN JANUARY-JUNE, 1976, ONLY 7 PERCENT WAS MOORE-MCCORMACK, WHILE 15 PERCENT EACH WENT TO LLOYD AND NETUMAR AND 63 PERCENT WENT THIRD-FLAG. BLACKWELL INDICATED THAT REBATING WAS THE ONLY POSSIBLE EXPLANATION FOR THIS HUGE DISPARITY. AFTER MORE DISCUSSION OF IMPORTANCE OF FISCAL INCENTIVES IN SHIFT TO BRAZILIAN VESSELS, ABUD ADMITTED THAT "I CAN'T SAY YOU AREN'T RIGHT...I'M JUST NOT SURE". BLACKWELL RETURNED TO USG CONTENTION THAT "EQUAL ACCESS" SIMPLY DOES NOT WORK UNDER THESE CONDITIONS, AND THAT CONTINUATION OF PRESENT SITUATION WILL CERTAINLY PRODUCE FORMAL REQUEST FOR FMC CONSIDERATION UNDER SECTION 19 AND/OR A COMPLAINT TO STR UNDER SECTION 301 OF 1974 TRADE ACT. SAYING THAT HE HOPED SUCH "EXTREME" REMEDY COULD BE AVOIDED, ABUD RETURNED TO CONSIDERATION OF ADDITIONAL STATISTICS. HE CITED DIFFERENT SHARES IN FIRST SIX MONTHS OF 1976 IN THE SAME CATEGORY (TIMBER AND SEMI-MANUFACTURES) TO THE GULF (WITH DELTA GETTING TWO-THIRDS OF GULF TOTAL) AND TO THE US EAST COAST (WITH NETUMAR GETTING OVER HALF OF THAT TOTAL). LASH BARGES USED BY DELTA WERE LIMITED OFFICIAL USE

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NOTED BY THE USDEL AS ONE EXPLANATION FOR THAT PHENOMENON. AFTER ADDITIONAL DISCUSSIONS, ABUD SUGGESTED THAT A GOVERNMENT-TO-GOVERNMENT FRAMEWORK FOR A NEW NORTHBOUND "EQUAL ACCESS" ARRANGEMENT WOULD BE A PROMISING APPROACH.

11. ACCEPTING POSSIBILITY OF ADDITIONAL "EQUAL ACCESS" ARRANGEMENT, ASSISTANT SEC BLACKWELL RETURNED TO BASIC SUBSIDIES QUESTION. HE STATED THAT THERE WOULD BE SEVERE PRESSURES FOR FMC OR STR ACTION IF HE RETURNED TO US WITHOUT PROGRESS ON THIS ISSUE. USG WOULD BE LEFT WITH NO POWER TO RESTRAIN LINES FROM PURSUING THEIR OWN SOLUTIONS: COUNTERVAILING OR SHOW ACTIONS AGAINST BRAZILIAN LINES WOULD BE A HIGH PRICE TO PAY FOR INACTION ON THIS RELATIVELY SMALL ISSUE. AFTER ABUD'S PROMISE TO SEE IF HE COULD NOT GET ADDITIONAL GOB FORWARD MOTION ON FISCAL INCENTIVES AND VERY BRIEF

CONSIDERATION BY ITAMARATY REP HELCIO TAVARES PIRES OF WAYPORT PROBLEM (LATIN AMERICAN BILATERALS WITH 50-50 SHARING AND FREEZE-OUT OF THIRD-FLAGS), SESSION WAS ENDED. ANOTHER MEETING IS SCHEDULED FOR TUESDAY, AFTER ISHIKAWAJIMA VISIT, AND FINAL MEETING IS SET FOR THURSDAY.

12. CONGEN RIO COMMENT: PIRES PLAYED EFFECTIVE, LOW-KEY ROLE IN KEEPING TALKS FLOWING. HE WILL BE PRESENT FOR SESSIONS IN BRASILIA ON WEDNESDAY, WHICH MAY BE LOCALE FOR FURTHER REVIEW OF FISCAL INCENTIVE ISSUE. HE ALSO DISCUSSED LIGHT-BUOY DUES MATTER IN CORRIDOR TALK WITH ABUD AND USDEL OFFICIALS, WITH BOTH BRAZILIANS INDICATING THERE MAY BE SOME FLEXIBILITY ON THIS ISSUE (ALSO UP FOR DISCUSSION WEDNESDAY IN BRASILIA). EMBASSY WILL HAVE SEEN ARTICLES IN TODAY'S EDITIONS OF JORNAL DO BRASIL AND O GLOBO BASED ON INTERVIEW LATE YESTERDAY WITH BLACKWELL. TONE IS FAVORABLE, AND STORIES GENERALLY ACCURATE, THOUGH FIRST PARAS OF BOTH PIECES LEAVE ERRONEOUS IMPRESSION THAT WE ARE DISCUSSING OVERALL EXPORT INCENTIVES.  
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